

**BEFORE THE ETHICS COMMISSION FOR THE STATE OF TENNESSEE AT
NASHVILLE**

In re:)	No. 2008-60
)	
Brad Lowry)	
)	
Respondent)	

CONDITIONAL ORDER ON SHOW CAUSE

This matter came to be heard by the Tennessee Ethics Commission ("Commission") on September 23, 2008 at its regularly scheduled meeting upon Commission staff's presentation of Commission records showing that Respondent failed to timely file a Statement of Disclosure of Interests, Form SS-8005 ("Statement"), as required by Tenn. Code Ann. §§ 88-50-504.

FINDINGS OF FACT

Based on the entire record in this matter, the Commission finds as follows:

1. Respondent, Mr. Lowry, was a local elected official on January 31, 2008, and was required to file a Statement as required by Tenn. Code Ann. §§ 8-50-504.
2. The Commission has taken steps through training, website postings, and notices to help persons required to file Statements do so in a timely manner. Mr. Lowry filed his 2007 Statement on June 18, 2007.
3. Respondent did not file a Statement by January 31, 2008.
4. In June, 2008, the Commission sent a warning letter to Mr. Lowry by first class mail advising that his statement had not been received. This warning letter was not returned.
5. On July 11, 2008, the Commission sent Respondent an assessment letter and notice of opportunity to participate in informal proceedings (the "Show-Cause Notice") by certified mail, return receipt requested, and by regular first class mail. The Show-Cause Notice stated that the Commission intended to consider, at its August 26, 2008, meeting, an assessment if civil penalties against Respondent for failure to file his 2008 Statement in a timely manner.

6. The Show-Cause Notice set forth the allegations, the maximum amount of civil penalties that could be assessed, and the date, place, and time of the hearing. The Show-Cause Notice also informed Respondent of his opportunity to participate in the hearing either by appearing personally or by submitting a sworn statement and any supporting documents.
7. Respondent's Statement was received in the Commission offices on August 6, 2008. The Show Cause Notice sent to Respondent by certified mail was returned to the Commission offices marked "Return to Sender" "UNC" after two deliver attempts on July 12, 2008, and July 17, 2008. The order was returned by the USPS on July 27, 2008.

CONCLUSIONS OF LAW

1. Respondent had a duty under Tenn. Code Ann. §§ 8-5-501(a)(19) and 8-50-504 to file a Statement as a local elected official who retained office.
2. Respondent's failure to file a Statement by January 31, 2008, constitutes a Class 1 offense pursuant to Tenn. Code Ann. § 3-6-205(a)(1).
3. Pursuant to Tenn. Code Ann. § 3-6-205(a)(1)(A), the Commission has authority to assess civil penalties for failure to file a Statement of twenty-five (\$25.00) dollars a day with a maximum penalty of seven-hundred fifty (\$750.00) dollars. Penalties accrued from five (5) days after the last day of attempted for a total of ten (10) day, until the Statement was received in Commission offices. The penalty is ten (10) days at twenty-five dollars (\$25.00) for a total of two hundred-fifty (\$250.00).

CONDITIONAL ORDER

It is therefore conditionally ORDERED as follows:

1. The Executive Director shall issue this Order on behalf of the Commission, and cause a copy of this Order to be provided to the Respondent, by either personal service, certified mail return receipt requested, or overnight delivery.
2. This conditional order will not become final until after Respondent has been afforded an opportunity for a contested case hearing.

3. Respondent may obtain a contested case hearing by filing, within thirty (30) days of this order, a written petition therefore with the Commission. By timely filing such a petition, petitioner will be entitled to all rights afforded to participants in a contested case hearing as provided by the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 – 4- 5-325.
4. If Respondent does not timely file a Petition, the right of a contested case hearing will be waived, and this Order shall become final.
5. The findings of a violation in this order may be considered an aggravating factor by the Commission in making penalty determinations as to any future violations of the Ethics Reform Act.

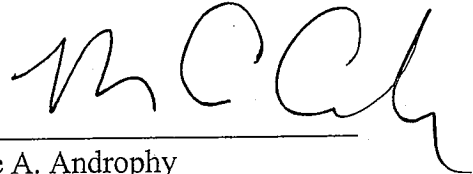
SO ORDERED

Issued this 30th day of September, 2008

TENNESSEE ETHICS COMMISSION

By: _____

Bruce A. Androphy
Executive Director

A handwritten signature in black ink, appearing to read 'B. Androphy', is written over a horizontal line that serves as a signature line.